

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EUDORA TUCKER

Plaintiff,

- against -

THE GUARDIAN LIFE INSURANCE COMPANY OF
AMERICA

Defendant.

13 Civ. 3719 (JGK)

Order

JOHN G. KOELTL, District Judge:

At today's conference, the plaintiff requested that the Court appoint her counsel. However, from the papers provided, the Court cannot determine whether the necessary showing for appointment of counsel has been met. The Court of Appeals for the Second Circuit has articulated factors that should guide the Court's discretion to appoint counsel to represent an indigent civil litigant under 28 U.S.C. § 1915. See Hodge v. Police Officers, 802 F.2d 58, 61-62 (2d Cir. 1986). For the Court to order the appointment of counsel, the petitioner must, as a threshold matter, demonstrate that her claim has substance or a likelihood of success on the merits. See Hodge, 802 F.2d at 60-61. Only then can the Court consider the other factors appropriate to determination of whether counsel should be appointed: "plaintiff's ability to obtain representation independently, and his ability to handle the case without assistance in the light of the required factual investigation, the complexity of the legal issues, and the need for expertly conducted cross-examination to test veracity." Cooper v.

A. Sargenti Co., Inc., 877 F.2d 170, 172 (2d Cir. 1989). The plaintiff has not yet made such a showing. The plaintiff's application for the Court to appoint counsel is therefore **denied without prejudice** for failure to make the required showing at this time.

The Court requests that the Pro Se Office appoint counsel for the plaintiff solely for purposes of settlement.

SO ORDERED.

**Dated: New York, New York
August 6, 2013**

/s/
JOHN G. KOELTL
UNITED STATES DISTRICT JUDGE